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Letter dated 19 August 2004 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, I have the honour to enclose herewith a message from Mustafa Osman Ismail, Minister for Foreign Affairs, addressed to the President of the Security Council, regarding the situation in Darfur and Council resolution 1556 (2004) (see annex).

I would highly appreciate it if you could circulate the present letter and its annex as a document of the Security Council.

(*Signed*) Omer B. **Manis**
Chargé d'affaires a.i.

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Annex to the letter dated 19 August 2004 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

[Original: Arabic]

17 August 2004

1. The Government of the Sudan considers that resolution 1556 (2004), which was adopted by an organization of which we are a member, commands its respect like all other such resolutions, irrespective of their content or nature. Based on this principle, we are committed to cooperation with the international community, and our work for the implementation of the resolution is on the basis of what we continue to declare and affirm, namely that we have before us in Darfur a problem of extreme difficulty and complex dimensions. We are endeavouring to resolve it, and to avert its humanitarian, security, and social ill-effects through cooperation with our regional organization, the African Union, and with the United Nations.

2. The Government of the Sudan will act like any responsible Government with regard to the suffering of its citizens in this region. We are therefore proceeding with implementation of the provisions of the resolution based on the principle of our responsibility to this part of our country. Accordingly, we are eager to cooperate with the international community to resolve the conflict and remedy its ill-effects. This desire of ours has been underlined by the fact that the Sudan has received many United Nations delegations, and has signed the Joint Communiqué as well as the Darfur Plan of Action in the course of addressing the situation in Darfur.

3. We are fully aware of the scale of the problem in Darfur and its uniqueness compared to other conflicts in the countries of the world. Our treatment of this problem revolves around four principal themes which, in our estimation, constitute the first principles and basis of a comprehensive political solution:

1. The humanitarian aspect;
2. Disarming the militias;
3. Security and protection of human rights;
4. A political settlement.

4. The humanitarian aspect

As the United Nations has testified, we have achieved progress on the humanitarian side by removing all factors that delayed the arrival of aid. We are referring here to the Government's decrees relating to the removal of restrictions with regard to organizations working in the humanitarian field. In fact we have opened up the Darfur region completely to all the organizations and agencies to a degree rarely found in any other country. It is important that we mention here the close cooperation and complete coordination between the Government of the Sudan and the United Nations guaranteeing the smooth flow of humanitarian aid and facilitation of the movement of aid workers.

5. Disarming the militias

Here we must remind the Council that disarmament in a region like Darfur, in which a weapons culture is endemic among the tribes, is not like disarmament in any

other country, especially since the open rebellion of armed groups against the Government and their assault on numerous important strategic sites, which has motivated tribes all the more to acquire weapons. The region is now 100 per cent armed. We have embarked on measures to address this aspect which have achieved progress after the deployment of extra police reinforcements in the region. But we must make clear to the Council that the process of disarmament would appear to be an almost impossible task, even if we had the most powerful of armies at our disposal, without both complete adherence by the other side to the N'Djamena Ceasefire Agreement and simultaneous disarmament by the rebel militias. Nevertheless, we have gone forward with disarmament programmes, and the Security Council knows better than any other international body that disarmament operations are always achieved through integrated demobilization, disarmament and reintegration (DDR) programmes, and that the benefits of these programmes do not materialize in a matter of weeks, because the entire process depends on a comprehensive settlement of the problem, not merely a partial one that operates under the shadow of failure to honour the ceasefire, retention by the rebel groups of their weapons and their rejection of political dialogue.

6. Security and protection of human rights

Based on a firm position with regard to voluntary return, the Government has mobilized all its resources to provide the security necessary for the voluntary return of emigrants to their villages and to provide for their humanitarian needs in those villages. It is known to the Council that the Government has reinforced police deployment in the region (6,000 individuals) to achieve the security necessary for the returning emigrants. Perhaps we might remind the Council that these very police contingents have become a target of rebel attacks, which has affected their performance in some areas. As for the human rights side, we emphasize to the Council that it was the Government that instigated and welcomed the dispatch of a mission from the Commission on Human Rights in Geneva, and also the Government that agreed to the deployment of human rights monitors in the region, and set up courts to hear grievances on this subject and render a final judgement on them. In view of the sensitivity of aspects related to rape, the Government has sent women (judges, doctors) to the region to receive complaints from women; judgements continue to be rendered and a number of sentences have been imposed on the few whose involvement has been proven.

7. A political settlement

The Government of the Sudan continues to believe that a political settlement is the strategic option that will lead to a permanent remedy for conditions in Darfur. Based on that, the Government has affirmed in the past and reaffirms its complete readiness to negotiate without prior conditions and in good faith, in contrast to the other side which continues to adopt positions rejecting dialogue, as happened at the Addis Ababa talks of July 2004. The Government has responded to the call of the President of the African Union for negotiation with the rebels in Abuja on 23 August 2004 and will be represented by a high-level delegation empowered to conduct full negotiations.

8. Above and beyond that, as you know, on 5 August 2004, the Government signed, with Mr. Jan Pronk, the Special Representative of the Secretary-General, the Plan of Action detailing the steps within the framework of implementing resolution 1556 (2004) and the undertakings of the Joint Communiqué. I am happy in this

context to convey to you our satisfaction with the Joint Implementation Mechanism worked out between us and the United Nations to follow up the implementation of these commitments.

9. Based on the desire of the Sudan to continue cooperation and constructive dialogue with the Security Council, I would like to convey to you some comments that we hope will be of help to the Council within the framework of resolution 1556 (2004).

(a) All parties that have followed events in Darfur, including the United Nations and the voluntary organizations, recognize the enormous improvement in access to Darfur and opening by the Government of the region to all humanitarian activity without restrictions or obstacles. However, the severe shortage of humanitarian assistance supplies represents a great challenge that requires concerted and urgent efforts. The Government of the Sudan hopes that the Security Council will redouble its efforts to urge the international community to carry out its commitments to render assistance to those in need in Darfur.

(b) The Government of the Sudan considers that the rebel movements bear responsibility for the deteriorating situation in Darfur, since it was they that started the war and continue repeatedly to violate the ceasefire and commit breaches of international humanitarian law and human rights. Accordingly, we hope that the Council will devote special attention to that aspect and will exert pressure on the rebels to put a stop to the activities in the emigrant and refugee camps.

(c) The Government of the Sudan is pleased to note that the Security Council has endorsed the role of the African Union and has declared its readiness to support it; this is consistent with the position of the Government which has repeatedly affirmed its desire for the conflict in Darfur to be addressed within the African community and the importance of the role of the African Union in that connection. The Government of the Sudan looks to the family of nations to provide the necessary support to the African Union in performing its mission.

(d) The Government notes that the Council has reaffirmed its commitment to respect for the sovereignty, unity, territorial integrity and independence of the Sudan in accordance with the Machakos Protocol. Notwithstanding the full commitment of the Government to the Machakos Protocol, it considers that it was incumbent on the Security Council to make a point of affirming its respect for the sovereignty, unity, territorial integrity and independence of the Sudan in an unconditional manner without reference to any agreement or instruments other than Sudan's Declaration of Independence adopted by the Parliament in December 1955 since, from the standpoint of international law, that is the entire legal and constitutional basis for the Sudan's independence. For the following reasons, the Machakos Protocol and its related agreements did not entitle the Security Council to refer to it in such a resolution:

- The Machakos Protocol and its related agreements are internal agreements of the Sudan, whatever its implications may be in the future from the point of view of comprehensive peace agreements. That being so, the Machakos Protocol cannot be regarded at the international level as having conditioned or modified the Sudan's present status as a united, independent and sovereign State, even though the sponsors of the resolution, or some of them, wish to imply that the Sudan's status as a united, independent and sovereign State is ultimately connected with, and premised on, texts relating to self-determination pre-dating the finalization of the de facto exercise of self-

determination referred to in the Machakos Protocol. In other words, objectivity and sincerity demand that the focus should be solely on the unity and independence of the Sudan without attaching to it other implications of any kind.

- The principles of the Charter and the rules of international relations require that reference should be made to the political and constitutional status of a State within the framework of the international community as it actually is, without any inductive, predictive or suggestive references to the future situation of that State, unless the matter concerns a State the existence of which, for some reason or other, including international law and the principles of international relations, is not based on full legitimacy.

(e) The Government is gratified that the Council expresses its concerns at violations of the ceasefire and its call to all parties to abide by it, but the Government considers that the Council should have referred to the obvious non-compliance of the rebels and their continued violations of the ceasefire. The insurgency has continuously been targeting the police and civilian security agencies as a result of which the empowerment of the police and of the various security and law enforcement agencies requires, as a matter of acute and urgent necessity, the exercise by the international community of pressure on the rebel movements to prevail on them to desist from their violations and to respect the ceasefire. It is worth referring here to the fact that the rebels have murdered over 400 members of the police force and have destroyed over 90 police stations thereby indicating their prior intention to destroy the security agencies, public order and the rule of law in Darfur in order to give currency to subsequent reports that the Government had failed to ensure security.

(f) The role of Eritrea in undermining stability in the region as a whole, including the Sudan and particularly Darfur, is well known to the Council from the letters and documents that we have repeatedly sent it and we invite the Council to put a stop to such practices by sending a mission to establish the facts concerning the subversive role of Eritrea. We had hoped that the Security Council would urge Eritrea, in resolution 1556 (2004), to cease its destructive activities.

(g) The Council adopted this resolution under Chapter VII of the Charter even though the situation in Darfur is currently being addressed in a manner consistent with Chapter VI, which specifies peaceful efforts to resolve disputes, and Chapter VIII which specifies regional arrangements for resolving conflicts. That is the result of the Government's commitment to a political and peaceful solution and to the concern of the African Union for the peace efforts made in coordination with the good offices of Chad.

Furthermore, the resolution mentions the Naivasha agreement, a reference for which the Government can see no justification in a resolution which is essentially concerned with the situation in Darfur, since the peace process in Naivasha was concluded in full accord with Chapter VI of the Charter (pacific settlement of disputes) and Chapter VIII (regional arrangements for the settlement of disputes). There is therefore no justification for referring to it in a resolution issued under Chapter VII. Moreover, the resolution concerning Darfur was adopted under that Chapter on the pretext that the situation had become a threat to world security and peace. Even if we assume, for the sake of argument, that the situation in Darfur threatens international security and peace, what happened in Naivasha was totally different since it reinforced security, peace and stability in the region and throughout the world. In any case, bearing in mind the view of the Government of the Sudan

that Chapter VII does not provide an appropriate framework for addressing this dispute, the reference to Chapter VII should have been restricted to paragraphs 7 to 10 of the resolution; there is nothing to justify the inclusion of the other paragraphs of the resolution under Chapter VII.

(h) With regard to the disarming of the Janjaweed and the bringing to justice of Janjaweed leaders, the Government of the Sudan wishes to point out that the Council's resolution failed to mention the practical steps that have been taken to bring to justice those criminals whom the authorities have been able to apprehend. The action taken strongly and clearly confirms the desire of the Government for the rule of law and the enforcement of justice despite the local complications and the difficult situation facing the region as a result of the seditious activities of the rebels. Given the commitment of the Government and its continuous efforts to disarm all the militias that threaten security and stability in the region and the safety of its citizens in Darfur, the Government considers that the best means of disarming the Janjaweed and other militias lies in reaching political solutions which will make the entire population confident that their security and safety are guaranteed, thereby making disarmament feasible. Stopping aggression by the rebels is vital for successful disarmament whereas the continuation of such aggression redoubles the determination of others to bear arms in order to defend themselves and their families. The Government of the Sudan has committed itself by the Plan of Action that it signed on 5 August 2004 with Mr. Jan Pronk, the Special Representative of the Secretary-General, to continue steps to disarm the militias in accordance with resolution 1556 (2004) and to endeavour to create conditions conducive to the restoration of stability in Darfur.

(i) The Government has suffered greatly from the threat to the country's security and stability as a result of the flow of weapons across Sudan's international frontiers and it is gratified that the international community is assisting in putting an end to that situation. However, it hopes that the arms embargo will include the rebel movements and also that the international community, headed by the Security Council, will work to stop the support and the supply of weapons to the rebels by outside parties that are intent on destabilizing the Sudan and threatening its security. There is no doubt at all that the Government of the Sudan will be very pleased to be involved directly in any international consultations or efforts designed to halt the flow of arms to Darfur.

(j) The Government of the Sudan affirms its total willingness to cooperate with the international community and the United Nations in addressing the humanitarian situation in Darfur and its desire to achieve a political settlement of the conflict in Darfur as a strategic option and the Government's top priority. It also affirms its commitment to the leading role of the African Union in this connection. The Government of the Sudan, in consideration of its national and international responsibilities, its respect for international legitimacy and its desire to achieve security, peace and stability in Darfur in the shortest possible time, reaffirms its compliance with its commitment and obligation to implement resolution 1556 (2004) and hopes that all parties, both the international community and the rebels, will share the same commitment.

(*Signed*) Mustafa Osman **Ismail**
Minister for Foreign Affairs